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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/19/2001

Roland Bernard

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6128

7590

06/22/2006

SUGHRUE, MION, ZINN,  
MACPEAK & SEAS, PLLC  
2100 Pennsylvania Avenue, NW  
Washington, DC 20037-3213

EXAMINER

RIVELL, JOHN A

ART UNIT

PAPER NUMBER

3753

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/981,743	BERNARD ET AL.	
	Examiner	Art Unit	
	John Rivell	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 4/24/06 (RCE).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 21-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-23, 27, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 24-26, 28, 29 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10192001</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 24, 2006 has been entered for the purpose of this action only. As noted below the amendment remains essentially non compliant.

The amendment filed March 24, 2006 is non compliant with 37 CFR §1.121(c) for failure to list all claims, and their status, of the application. For example, a listing or notation of claims 1-20 being canceled is missing. For the purposes of this action only, the amendment is treated as if proper and entered. Applicant is cautioned that failure to properly follow guidelines for amendments filed in pending applications may cause further non compliant notices and cause further delay in prosecution of the application.

Claims 1-20 have been canceled. Claims 21-29 and new claims 30-32 are pending.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 32 is currently dependent on canceled claim 1. Claim 32 is therefore currently indefinite. The merits of claim 32 are treated below as if properly dependent on claim 30.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 30 is rejected under 35 U.S.C. §102 (b) as being anticipated by Curwen.

The patent to Curwen discloses an “atmosphere conditioning apparatus, comprising; a vacuum pump (compressor 20 is a “pump”. The inlet or suction conduit of the pump provides a “vacuum”. The device is therefore readable as a “vacuum pump”); a (inherent) motor for driving the vacuum pump; and a sealed isolation enclosure (10) surrounding the vacuum pump and the motor; wherein the enclosure is designed to contain disturbances caused by the vacuum pump and motor combination” as recited.

Regarding applicants remarks concerning the above, the argument that:

“the disclosure of Curwen fail to teach or suggest the enclosure is sealed (emphasis in original)”

is unpersuasive in view of the disclosure of Curwen.

As disclosed in Curwen, the outer casing 10 is formed by a cylindrical central portion 12, and oppositely disposed hemispherical end sections 14 and 16. Both the end sections are disclosed as being “welded” (column 3, lines 63-65). Although other methods of attaching the ends are disclosed, in the embodiment in which they are “welded” the “enclosure” at portion 12 and end sections 14 and 16 is read as being

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"sealed. Moreover, as the inlet and outlet tubes 22, 42 pass through the central section 12 via welded collars 24 and 36 there appears to be no manner by which one could call this disclosed embodiment not sealed.

Applicants further comments in support of the above argument, namely that:

"Curwen explicitly teaches that any structural support may be used, implying a total enclosure is not required"

is agreed with to the extent that this is what Curwen discloses. However, disclosure of alternate embodiments such as being enclosed or not enclosed, does not eliminate either disclosed embodiment from the teachings of Curwen. That is, Curwen teaches or suggests alternative embodiments of the enclosure, one of which appears to be "sealed" e.g. the welded embodiment, others of which may not be sealed. The disclosure of both in a single patent document does not eliminate either as a relied on teaching of the patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21-23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reimer et al. (EP 1 014 427) in view of Curwen.

The European document to Reimer et al. discloses, in figure 2, an "apparatus for conditioning the atmosphere in a vacuum chamber (120), said apparatus comprising: a vacuum line (120, 182, 160, 185, 170a, 160, 175a, respectively) including said vacuum chamber (120) and comprising a pumping apparatus (high vacuum pump 160 or pre vacuum pump 165a) including at least a primary pump (read on either pump 160 or 165a); and isolation means (in general, i.e. the reduction of mechanical vibration as discloses at page 8, lines 27-28)... enabling the disturbance caused by the pumping apparatus to the vacuum chamber to be reduced" as recited.

Thus Reimer et al. discloses all the claimed features with the exception of having the "isolation means" of equivalence to that disclosed in the instant application and "comprising an isolation enclosure enclosing said primary pump (that is) sealed".

The patent to Curwen discloses that it is known in the art to employ, on a vibration generating machine such as a compressor (which is nothing more than a pump), an "isolation means" such as the outlet pipe 34 acting as a sensor to detect vibrations generated by the compressor, and a vibration generating element at weight 38 which generates vibrations, opposite in phase to vibrations generated by the pump, all enclosed by an "enclosure" at casing 10, sealed by end portions 14 and 16 being welded to the central section 12, for the purpose of reducing and/or isolating the remainder of the system from vibrations generated by the pump and fluidly isolating the interior of the enclosure from the atmosphere thus precluding potential damaging effects of pollution on the motor and or pumped fluid.

This "isolation means" is considered to be one of the "equivalents" necessitated by the means-plus-function language warranted by the recitation "isolation means" in the claims.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Reimer et al. a mechanical "isolation means" in the form of a weight attached to the conduits connected to the pump(s) to generate vibrations, opposite in phase, to the vibration generated by the pump therein, all enclosed by a sealed enclosure for the purpose of isolating or reducing the transmission of vibration transmitted to the remainder of the system from the vibration generating mechanics such as the pump and fluidly isolating the interior of the enclosure from the atmosphere thus precluding potential damaging effects of pollution on the motor and or pumped fluid as recognized by Curwen.

Regarding claim 22, in Reimer et al., "the pumping apparatus (pre vacuum pump 165a or the high vacuum pump 160) is disposed in the immediate vicinity of the vacuum chamber (120)" as recited.

Regarding claim 23, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Reimer et al. an enclosure about the pump 165a and to include within the enclosure an active vibration damping system for the purpose of protecting the pump and to actively reduce or eliminate vibration caused by the pump apparatus as recognized by Curwen. This would thus make the high vacuum pump read as the "upstream secondary pump"


Regarding claim 27, in Curwen, "the isolation means includes active vibration-compensating means (at weight 38) for compensating the mechanical vibrations generated by the contents (e.g. pump) of the isolation enclosure (12)" as recited.

Claims 24-26, 28, 29 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (571) 272-4918. The examiner can normally be reached on Mon.-Thur. from 6:30am-5:00pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
**John Rivell**  
**Primary Examiner**  
**Art Unit 3753**

j.r.